

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS

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**ORDER ADOPTING AMENDED PLAN FOR THE REIMBURSEMENT
OF ATTORNEY EXPENSES IN CIVIL CASES**

On this day came on to be considered the proposed Amended Plan for the Reimbursement of Attorney Expenses in Civil Cases. Having previously forwarded a copy of this amended plan to all district judges in this Court for review and comment, and there being no objection to the revisions as proposed, the Court finds that the following orders should be entered.

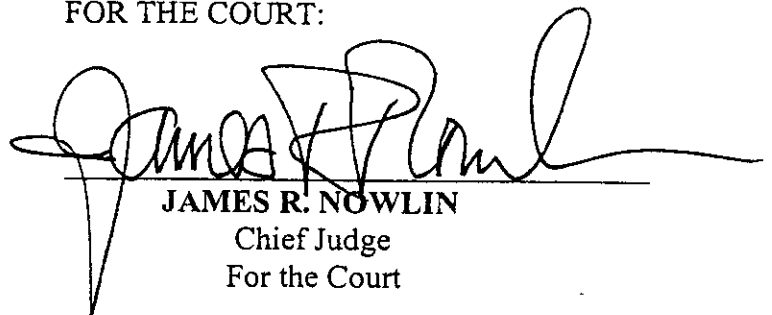
It is hereby ORDERED that the attached Amended Plan for the Reimbursement of Attorney Expenses in Civil Cases be, and it is hereby, APPROVED and ADOPTED by the Court.

It is further ORDERED that this Amended Plan will become effective immediately and made applicable to all pending requests for reimbursement now pending or hereinafter submitted in accordance with the provisions of this plan.

It is further ORDERED that the Clerk of this Court shall file a certified copy of this Order and the Amended Plan in each divisional office of the United States District Clerk for the Western District of Texas, as well as any other place of doing the business of this Court.

SIGNED and ENTERED this 1st day of August, 2002.

FOR THE COURT:


JAMES R. NOWLIN
Chief Judge
For the Court

w/attachment (the "Amended Plan")

A true copy of the original, I certify.
Clerk, U. S. District Court

By 
Deputy

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS**

***AMENDED
PLAN FOR THE REIMBURSEMENT OF
ATTORNEY EXPENSES IN CIVIL CASES***



August 1, 2002

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS**

**AMENDED PLAN FOR THE REIMBURSEMENT
OF ATTORNEY EXPENSES IN CIVIL CASES**

I. Overview of the Program

It has long been the policy of this Court to encourage members of the bar to represent parties who cannot afford counsel. In furtherance of this policy, the judges of this Court first adopted a Plan for the Reimbursement of Attorney Expenses in Civil Cases (hereinafter, "the Plan") on May 15, 1985.

At that time, it was determined that when an attorney had been appointed to represent an indigent party in a civil matter, that attorney would be allowed to petition the Court for reimbursement of certain expenses. These were expenses, as initially defined in the policy section of the Plan, that would be incurred in the preparation and presentation of the case. Funding for this program would be obtained from this Court's Non-Appropriated Fund, and the total limit allowable under this program, as originally enacted, was \$300.00 per case.

It now appears clear to the judges of this Court that the maximum allowable amount of \$300.00 is grossly inadequate. It is further noted that due in large part to the influx of additional funding through the Attorney Renewal Program, the Non-Appropriated Fund has and will maintain sufficient funding to provide for a significant increase in the compensation for attorney expenses allowable under this Plan.

Accordingly, the maximum amount for payment of attorney expenses under the provisions of this Plan is increased to \$1,500.00 per case. **Only in rare and exceptional circumstances can this maximum amount be exceeded with the unanimous approval of the Non-Appropriated Fund Committee of this District.**

II. Restrictions of the Program

- A. Only reasonable and necessary attorney expenses and expert or investigative fees actually incurred by the claimant are reimbursable under the provisions of this Plan. Attorney fees, or any other such compensation for legal services provided, are not subject to reimbursement from the Non-Appropriated Fund.

- B. Any costs that are either waived or recoverable under the provisions of Title 18, U.S. Code, or under Title 28, U.S. Code, or which have been recovered under any other plan of reimbursement shall not be reimbursed from the Non-Appropriated Fund.
- C. In no case shall an appointed attorney for a party who has been awarded costs and/or expert or investigative fees pursuant to a judgment in a suit before this Court be eligible for reimbursement of costs and/or expert or investigative fees from the Non-Appropriated Fund.
- D. Only those costs associated with the preparation or presentation of a civil action in the United States District Court for the Western District of Texas shall be approved for reimbursement. No costs associated with the preparation or presentation of an appeal to the United States Court of Appeals or the United States Supreme Court shall be reimbursed from the Non-Appropriated Fund.

III. Procedure for Requesting Reimbursement

- A. All requests for reimbursement of expenses in civil cases must be filed within thirty (30) days of the entry of judgment. The appointed attorney shall file with the Clerk's office a request for reimbursement of costs incurred in the preparation and /or presentation of the case. This request shall be filed on a form approved by the Clerk and available through the Clerk's office. The Clerk will forward any request for reimbursement made pursuant to the provisions of this Plan initially to the judge to whom the case was assigned. Upon approval from that judge, the Clerk will then forward the request to the Non-Appropriated Fund Committee for final approval.
- B. In cases in which an appointed attorney has withdrawn or has been dismissed prior to the entry of a judgment, that attorney shall file a request for reimbursement within thirty (30) days of withdrawal or dismissal. Any work product or services obtained for which reimbursement is requested from the Non-Appropriated Fund shall subsequently be provided to newly appointed counsel or, where no new counsel is appointed, to the party for whom counsel had been previously appointed.
- C. No interim payments shall be made to counsel for reimbursement of expenses. Expenses may only be reimbursed upon the conditions indicated in the next section of the Plan.

IV. Allowable Expenses

Attorneys appointed by the Court in civil cases may request reimbursement for the following expenses, subject to approval by the judge who is assigned the case and the Non-Appropriated Fund

Committee:

A. Depositions and Transcripts

Appointed counsel may order transcripts or depositions necessary in the preparation of the case. Cost of such transcripts shall not exceed the page rate for ordinary copy established in the Western District of Texas. Only the cost of the original of any transcript shall be allowed; the costs of additional copies shall not be reimbursed. In the interest of efficiency and cost-effectiveness, appointed attorneys are encouraged to use audio tapes for depositions. If audio tape depositions are used, transcription of the depositions may be reimbursed at the ordinary page rate established in the Western District of Texas.

B. Investigative or Expert Services

1. Counsel may request investigative or expert services necessary for the adequate preparation of a matter. Such services must have prior Court approval by the judge to whom the case is assigned to be considered for reimbursement under this Plan by the Non-Appropriated Fund Committee. If necessary, the request for approval may be made *ex parte* so that the applicant can avoid revealing trial or case strategy. The trial court shall approve such a request if it determines that the services are reasonably necessary to the prosecution of the applicant's claim. In making this determination, the Court may look by analogy to the standard set for approval of investigative or expert services in 21 U.S.C. §§ 848(q)(9).

2. Failure on the part of the appointed attorney to obtain prior approval of the request may result in a denial of reimbursement by the Non-Appropriated Fund Committee. Counsel should note that approval of this type of expenditure is not automatic and should be prepared to defend the reasons for its use.

C. Travel Expenses

Travel by privately owned vehicle for trips in excess of fifty (50) miles (each way) may be claimed at the prevailing mileage rate authorized for federal employees. In addition, out-of-pocket expenses for parking fees may also be reimbursed.

D. Fees for Service of Process

Fees for service of papers and the appearance of witnesses that are not otherwise voided, waived or recovered may be reimbursed from the Non-Appropriated Fund.

E. Interpreter Services

Costs of interpreter services not otherwise voided, waived or recoverable, may be reimbursed from the Non-Appropriated Fund.

F. Photocopying, Telephone Calls, Etc.

Actual out-of-pocket expenses incurred for such items as photocopying, photographs used in the case, toll calls, and the like may be reimbursed from the Non-Appropriated Fund. Such expenses must be reasonably necessary to the preparation of the case.

V. **Non-allowable Expenses**

The following expenses shall be considered to be non-allowable for reimbursement out of the Non-Appropriated Fund pursuant to this plan:

- A. General office expenses, including office overhead, payroll costs, equipment depreciation, basic telephone service, and the like shall not be reimbursable under this Plan.
- B. Any expenses not properly documented with receipts or other proof may be disallowed by the Judge or the Non-Appropriated Fund Committee.
- C. Expenses that may be statutorily recovered, or costs or fees taxed against a party or appointed counsel shall not be reimbursed by this Plan.
- D. The maximum amount that may be reimbursed for all expenses is **\$1,500.00**, **except in rare and exceptional circumstances as approved unanimously by the Non-Appropriated Fund Committee.**